IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No.16527 of 2003

Between:

Golla Kothe Buchanna S/o Kathe Balaiah
R/o Thippadampally Village, Atmakur Mandal,
Mahaboobnagar District.

..... PETITIONER

AND

1 The District Collector,
Mahaboobnagar.
2 The Mandal Revenue Officer,
Atmakur Mandal.
3 The Executive Engineer, Irrigation and Command Area Development, Mahaboobnagar.
4 T.Ashok Singh S/o.Kisan Singh
R/o.Thippadampally Village, Atmakur Mandal, Mahaboobnagar District.
(R4 is impleaded as per Court order Dt.9-2-04 in WPMP 23892/03)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent authorities in dumping the material along with the proclainor for digging the canal through the Petitioners lands bearing Ac.2-30 guntas in Sy.No.254 and 0-40 cents in Sy.No.255, situated in Thippadampally Village of Atmakur Revenue Mandal, Mahaboobnagar District, without any notice as arbitrary, illegal and violative of Article 14, 21 and 300-A of the Constitution of India.

Counsel for the Petitioner: MR.A.NARASIMHA REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR IRRIGATION & COMM AREA DEV.

Counsel for the Respondent No.4 : Sri.K.Rathangapani Reddy

The Court made the following :

ORDER:

This writ petition is filed by Golla Kothe Buchanna with a prayer to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent-authorities in dumping the material along with the proclainor for digging channel through the petitioner's land admeasuring Ac.2.30 guntas in S.No.254 and 0.40 cents in S.No. 255 situated in Thippadampally village, Atmakur Mandal, Mahaboobnagar District as arbitrary and illegal and viollative of Articles 14,21 and 300-A of the Constitution of India.

The petitioner is the owner and possessor of the land admeasuring Ac.2.30 guntas in S.No. 254 and 0.40 cents in S.No. 255 situated in Thippadampalli village, Atmakur Mandal, Mahaboobnagar District. The grievance of the petitioner is that respondents 1 to 3 are making hectic efforts to dig a channel through his lands without initiating any proceedings under the Land Acquisition Act.

Mr. T.Ashok Singh came on record as the fourth respondent as per the orders in W.P.M.P.No. 2398 of 2003 dated 09.02.2004.

One Mr.S.Harjeeth Singh, has filed counter-affidavit on behalf of the third respondent. It is stated in the counter-affidavit that the department did not use any force to dig the field channel and that the field channel has been in existence and water is being supplied to the tail end of ayacutdars beyond railway track by providing rent and by taking permission from the railway authorities. The expenditure is also meted out by the tail end ayacutdars.

The fourth respondent filed counter-affidavit resisting the claim of the petitioner. It is stated in the counter-affidavit that he obtained permission from the railway authorities for construction of sluice and laid pipeline across the railway track. He has also made complaints to the S.H.O., Atmakur Mandal, the details of which are not relevant for disposal of the writ petition.

Learned Counsel for the petitioner submits that the third respondent, without initiating any proceedings for acquisition of land, is attempting to dig a channel in the field of the petitioner and thus his acts are illegal and arbitrary.

Whereas, it is submitted by the learned counsel appearing for the fourth respondent that the petitioner obstructed the fourth respondent from drawing water from the field channel and thereby the fourth respondent kept his land fallow for two years. The dispute between the petitioner and the fourth respondent is beyond the scope of this writ petition. In view of the assertion made in the counter-affidavit of the third respondent that they are not going to dig a channel in the field of the petitioner, no further direction need be issued to the respondents. It is suffice to refer relevant portion of the counter-affidavit and it is thus :

> " It is further submitted that the department did not use any force to dig the field channel. Already there was a small irrigation channel for supply of O.V.P.Ramanpad water to the lands, including the lands of the petitioner. It is pertinent to mention here that the field channel are formed without acquiring any lands. The water is being supplied to the tail end of ayacutdars through the field channel beyond railway track by providing a rent under railway track by taking permission with the railway department. The expenditure is also metdout by the tail and ayacutdars under the irrigation channel."

In view the specific assertion by the respondents 1 to 3 that they are not going to dig a channel in the field of the petitioner, there is no cause of action for the petitioner to approach this Court.

Accordingly, the writ petition is disposed of. No costs.

_____

16.06.2005

sh

To

1 The District Collector,
Mahaboobnagar.
2 The Mandal Revenue Officer,
Atmakur Mandal.

3 The Executive Engineer, Irrigation and Command Area Development, Mahaboobnagar.
4 Two C.Cs to the G.P., for Irrigation and Comand Area Development, High Court Buildings, Hyderabad (OUT).

5 2 CD copies

6 1 CC to MR.NARASIMHA REDDY

7 1 CC to MR.RATHANGA PANI REDDY.